

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

LILY PRODUCE INC.,

Plaintiff,

- against -

LIBERATO GROCERY INC. t/a LIBERATO FOOD
MARKET, LIBERATO FOOD, INC. t/a LIBERATO
FOOD MARKET, C.J.N. GROCERY INC. t/a
LIBERATO FOOD MARKET, JOSE L. LIBERATO,
SANDY J. LIBERATO and ANSELMO C. PENA,

Defendants.

Case No. 22-cv-4125 (JPO)

**FINAL ORDER
AND JUDGMENT**

THIS MATTER having come before the Court on Plaintiff's application for a Final Order and Judgment; and it appearing that pursuant to the terms of the Stipulation and Order previously filed in this action on May 31, 2022 (Docket No. 24), this Court is to enter this Final Order and Judgment immediately upon the filing of a declaration by Plaintiff's attorney which states that payment has not been made by Defendants as required by the Stipulation and Order and Defendants have failed to cure the default in payment; and it appearing that Plaintiff's attorney has filed such a declaration and that Defendants have failed to make payment and to cure that default in accordance with the Stipulation and Order; and for good cause shown;

IT IS on this 14th day of December, 2022,

ORDERED, ADJUDGED, AND DECREED that plaintiff Lily Produce Inc. is a qualified trust creditor and beneficiary under the provisions of the Perishable Agricultural Commodities Act, 7 U.S.C. § 499a *et seq.* ("PACA"), of defendants Liberato Grocery Inc. trading as Liberato Food Market ("LGI"), Liberato Food, Inc. trading as Liberato Food Market ("LFI"), C.J.N. Grocery Inc. trading as Liberato Food Market ("CJN"), Jose L. Liberato ("J. Liberato"), Sandy J. Liberato ("S.

Liberato”) and Anselmo C. Pena (“A. Pena”) (LGI, LFI, CJN, J. Liberato, S. Liberato and A. Pena collectively, “Defendants”), jointly and severally, for a debt in the principal amount of \$16,105.08, plus accrued interest at the rate of 18% *per annum* through October 17, 2022 in the amount of \$1,103.97, bounced check fees in the amount of \$150.00, and reasonable attorneys’ fees through October 16, 2022 in the amount of \$1,105.00, for a total judgment amount of \$18,464.05 under the trust provisions of the PACA, 7 U.S.C. § 499e(c); and it is further

ORDERED that Defendants shall, within five business days of service of this Order, turnover any and all funds realized from the sale of produce or products derived from produce in their possession to McCarron & Diess, attorneys for Plaintiff (“Plaintiff’s Counsel”), located at 200 Broadhollow Road, Suite 207, Melville, New York, 11747, for distribution to Plaintiff; and it is further

ORDERED that any and all funds belonging to Defendants, in the possession of third parties, shall be immediately turned over to Plaintiffs’ Counsel, for distribution to Plaintiff; and it is further

ORDERED that any and all funds owed to Defendants shall be paid directly to Plaintiffs’ Counsel, when due for distribution to Plaintiff; and it is further

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ORDERED that Defendants shall supply to Plaintiff's Counsel, within five days of the date of this Order, any and all documents in their possession, custody or control which reflect or relate to the assets and liabilities of Defendants and their related and subsidiary companies, including, but not limited to, the most recent balance sheets, profit/loss statements, accounts receivable reports, accounts payable reports, accounts paid records, bank account statements and income tax returns.

ENTERED this 22nd day of December, 2022.

Dated: December 22, 2022
New York, New York



J. PAUL OETKEN
United States District Judge